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July 11, 2023

**VIA CM/ECF**

Honorable Claire C. Cecchi  
United States District Judge  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

**Re: *New England Petroleum Limited Partnership v. Daibes Oil, LLC, et al.* No. 2:14-cv-0726 (CCC) (JBC)**

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Dear Judge Cecchi:

I am in receipt of the Court's Order setting October 2, 2023 as the trial date in this matter. ECF No. 229. I write to inform the Court that in addition to being trial counsel in this matter, I am co-trial counsel for defendant Steven Schwartz in a criminal matter, *United States v. Coburn, et al.*, Criminal No., 19-120 (KM), as to which Judge McNulty, on April 13, 2023, set a trial for that same date, October 2, 2023. ECF No. 465. I know that given the prior correspondence in this matter, Plaintiff will somehow argue that I point this out to the Court in an effort to delay the trial in this matter, but that is not true or fair: my only concern is that I cannot be in two trials at the same time and will be at whichever one the Court directs.

Upon receipt of this Court's Order, I consulted with the Government, which has stated that it believes that its case will take between one (1) and two (2) weeks. Although there is always some uncertainty, it would seem to me that we could safely schedule this trial for early November, 2023; I say that because, as Your Honor is aware, the parties' *in limine* motions, trial briefs, *voir dire* and proposed jury instructions in this matter have already been filed, per the schedule previously set by the Court before the trial date of June 26, 2023 was adjourned (which did not, contrary to Plaintiff's contention, occur at Defendant Fred Daibes' request, or even at his suggestion, as his timely filing of these pleadings demonstrates).

In any event, and regardless of the precise trial date, we note that in the Court's Order adjourning the June 26 trial date, Your Honor indicated that "[g]iven the parties' recent letters and motions in limine (ECF Nos. 211, 212, 214, 215, 216, 217, 219, 220, 221), the trial currently scheduled for June 26, 2023 is ADJOURNED to allow for consideration of the issues presented therein." ECF No. 229. On behalf of Mr. Daibes, we believe that that Order is correct in that, as we have stated earlier, ECF Nos. 213, 221, it may very well be that a decision on the *in limine* motions, in particular, will not only serve to make the trial shorter and smoother as *in limine*

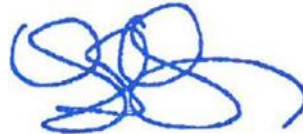
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motions are designed to do, but may, depending upon their disposition, serve to spur potentially successful settlement negotiations.

Like Plaintiff's counsel, we welcome the opportunity to discuss this matter in a status conference, or otherwise simply await Your Honor's ruling on pretrial motions, and resolution of the conflicting trial dates described above. Thank you for your kind consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "LSL" with a long horizontal flourish extending to the right.

Lawrence S. Lustberg

cc: All Counsel of Record (via CM/ECF)